

MANDATE

United States Court of Appeals For the First Circuit

85-10125
USDCMA
Judge Young

No. 06-2192

MARGARET CIMINI,
Plaintiff, Appellee,
v.

MARK CIMINI,
Defendant, Appellant.

Before
Boudin, Chief Judge,
Selya and Stahl, Senior Circuit Judges.

JUDGMENT

Entered: March 2, 2007

Appellant Mark Cimini attempted to remove, to the Massachusetts federal district court, a divorce and child custody case pending in the Probate and Family Court of Middlesex County, Massachusetts. The district court ordered the matter remanded to the state court on the ground that subject matter jurisdiction was lacking. Although appellant did not file a timely notice of appeal from this order, the appeal is timely as to the denial of one of his motions to reconsider (which rehashed the arguments that he had made in the removal petition itself).

In all events, we have no jurisdiction to review this denial. There is no question that, under 28 U.S.C. § 1447(d), a remand order based on a lack of subject matter jurisdiction is unreviewable. Quackenbush v. Allstate Ins. Co., 517 U.S. 706, 711-12 (1996). Thus, because we could not have reviewed the remand order itself, we cannot now review the denial of a motion to reconsider the remand.

This appeal is, therefore, dismissed for lack of appellate

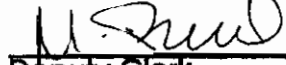
jurisdiction.

By the Court:

Richard Cushing Donovan, Clerk.

Certified and Issued as Mandate
under Fed. R. App. P. 41.

Richard Cushing Donovan, Clerk



Deputy Clerk

Date: 3/26/07

By: MARGARET CARTER
Chief Deputy Clerk.

[cc: Margaret Cimini, Mark Cimini, Annapurna Balakrishna, AAG]